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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/750,167  | 12/31/2003  | Vikram A. Saleore    | 884.B75US1          | 5042             |
| 21186 7590 07/24/2008<br>SCHWEGMAN, LUNDBERG & WOESSNER, P.A.<br>P.O. BOX 2938<br>MINNEAPOLIS, MN 55402 |             |                      |                     |                  |
| EXAMINER  |             |                      |                     |                  |
| NGUYEN, VAN KIM T   |             |                      |                     |                  |
| ART UNIT  |             | PAPER NUMBER         |                     |                  |
| 2152  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/750,167

**Applicant(s)**

SALETORRE, VIKRAM A.

**Examiner**

Van Kim T. Nguyen

**Art Unit**

2152

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 15-18 and 20-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-7, 15-18 and 20-23 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 23 April 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is responsive to communications filed on April 23, 2008. Claims 8-14 and 19 are cancelled, thus claims 1-7, 15-18 and 20-23 remained pending in the case.

### ***Response to Amendment***

2. Applicant's arguments with respect to claims 1-7, 15-18, and 20-23 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the system" in line 7. There is insufficient antecedent basis for this limitation in the claim because it's not clear what "the system" comprises since "a system" has not been introduced previously.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 7, 15-16 and 17-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy et al, hereinafter Ackaouy (US 7,171,469), in view of Morse et al, hereinafter Morse (US 6,609,004).

Regarding claims 1, 15-16 and 18-23, Ackaouy discloses a server (115) comprising:

- a processor (unit comprising 162-169; col. 5: lines 28-39);
- a memory (170, 171; col. 5: lines 50-60);
- a system area network connection (161; col. 4: lines 17-19 and col. 5: lines 28-29);
- a local area network connection (161; col. 4: lines 11-17 and col. 5: lines 28-29);

wherein the processor, memory, system area network connection, and local area network connection are operably interconnected within the system (see Figures 1A-B); and

load unique content into the memory from a storage location (e.g., proxy cache 115 caches active data set 140; col. 4: lines 65-67);

receive requests for content over the local area network (e.g., a client device 105 requests data; col. 4: line 40);

service requests for the content in memory (e.g., if it is a cache hit, the proxy cache 115 will transmit the request data to the requesting client 105; col. 4: lines 43-47);

service requests for content located in a memory of another server by obtaining the content over the system area network connection (e.g., if it is a cache miss, the proxy cache 115 will request the data from a server 110 and then provide the data to the requesting client 105; col. 4: lines 48-50); and

cache content used to service request for content located in the memory of the other server for use in servicing subsequent requests for identical content (e.g., the data from server

110 will be cached as an active dataset 140 in the proxy cache 115 and is available to other clients 105; col. 4: lines 50-52).

Ackaouy does not explicitly call for software held in the memory and operable on the processor, and the another server is identified as a function of a table holding content availability and location data of content held in memory of one or more other servers.

Morse teaches software held in the memory and operable on the processor, and the another server is identified as a function of a table holding content availability and location data of content held in memory of one or more other servers (Figure 4; col. 7: lines 43-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Morse's network content management in Ackaouy's system, motivated by the need to move a large amount of information to a large number of people at a relatively low cost.

Regarding claim 7, Ackaouy-Morse also discloses the unique content is loaded into memory prior to the server being available to service content requests (e.g., frequently requested data set 140 is cached in proxy server 115; Ackaouy, col. 4: lines 65-67).

Regarding claim 17, Ackaouy-Morse also discloses requests are received into the local area network on a router coupled to the Internet (e.g., load balancer 2220 or network switch 2405; Ackaouy, col. 21: lines 7-11 and 53-56).

***Claim Rejections - 35 USC § 103***

7. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse, as applied to claim 1 above.

Ackaouy-Morse does not explicitly call for the software operable on the processor to be a component of an operating system (OS) of the server, but since the main purpose of an OS is to organize and control hardware and software so that the computing devices behaving in a flexible but predictable way, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software can be made to be a part of the OS in order to better monitor and control the computing devices.

Regarding claim 3, though Ackaouy-Morse does not explicitly call for the software operable on the processor to be a driver; however, as it is well known in the art, a device/software driver is any computer program that allows other programs to interact with a computer hardware device, i.e., a driver is an interface for communicating with the device, or emulates a device. Since drivers are hardware-dependent and operating system specific, it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be modified to be a driver in order to allow interaction with a particular computer hardware device.

Regarding claim 4, Ackaouy-Morse does not explicitly call for the software operable on the processor to be a middleware component; however, as it is well known in the art, middleware is software that mediates between an application and a network. It manages the interaction

between disparate applications across the computing platforms. Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made the software operable on the processor may be a middleware component in order to mediating between an application and a network.

8. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ackaouy-Morse, as applied to claim 1 above, in view of Yeh et al (Introduction to TCP/IP Offload Engine (TOE), Version 1.0, 10GEA Alliance, April 2002), hereinafter Yeh.

Ackaouy does not explicitly call for the system area network a TCP Offload Engine (TOE) Gigabit Ethernet network.

Yeh teaches a 10 Gigabit Ethernet TCP Offload Engine enabled (TOE) network (pages 1-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Yeh's TCP/IP offload engine in Ackaouy-Morse's system in order to improve network performance, i.e., lowering server CPU utilization and increasing the data throughput.

### ***Conclusion***

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Van Kim T. Nguyen  
Examiner  
Art Unit 2152



Art Unit: 2152

Vkn

/Bunjob Jaroenchonwanit/

Supervisory Patent Examiner, Art Unit 2152